

1893-030 Chancery Causes: Daniel Hall vs. Heirs of John B. Burk
Lee Co.

Schoolcraft, Daugherty, Graham, Cox, Woliver

1 Plat

CA Estate Dispute
T-Property

-Deed

To the Honorable John A. Kelly Judge of the
Circuit Court of Lee County Virginia:

The Bill of Complaint of Daniel Hall of Said
County humbly complaining respectfully represents
to your honor that he is the owner by purchase
of one undivided Share in a tract of land lying
and being in Lee County Virginia about four or
five miles east of Jonesville containing about 45
acres be the same more or less and bounded as
follows to wit: Beginning at a whiteoak and
dogwood near an old well thence S 42 E 74 poles to
a stake on Poteets line thence S. 88 E. 88 poles to a
red oak thence N 45 W 139 poles to a Double Dogwood
and double Sourswood and Post oak thence S 45 W 5
to the beginning. Your Orator will here state that
this tract of land was once owned by one James
Burk but he had no deed for it but having bought
it and paid for it and was equitably entitled to
to the conveyance. But before the said conveyance was
made to him he departed this life leaving a widow
Nancy Burk and a minor heir John B. Burk and after
his death George W. Garrett in whom the legal title was
then vested conveyed the same to the widow and
minor heir according to their rights in the same
that is the widow to have the right of Dower only
in said land and the minor to have the entire tract
subject to the widow's Dower as the land came by
the husband and father. Some time after the Deed
was executed the said James B. Burk being still a
minor and unmarried departed this life also and
the title to said land became by the course of de-
secent vested in his fathers Brothers and Sisters &
their descendants who as far as can be ascertained

as follows to wit: Thomas Burk William Burk
Polly ^{Burk} who after ~~and~~ married Overton Schoolcraft
Rachel ^{Burk} who married Nicholas Daugherty & Eliza Burk
who are each entitled to one undivided sixth part of said land
~~and~~ ^{and} Henry Burk who is dead leaving a widow
and unknown heirs who are entitled to their one sixth part which widow
and heirs whose names are unknown and the said
John B. Burk deed had other unknown relatives to whom the land in part
Nancy Burk widow of James Burk deceased after-
wards conveyed her dower interest which had never
been assigned to her to John Graham and Jefferson
P. Cox who took possession of it and held the entire
tract under said deed and they afterwards sold it to
one Samuel P. Graham who has now the possession
of the entire tract. Your Orator further alleges
that the said Eliza Burk sold and conveyed her
undivided interest in said tract of land to one
said Miller and he sold and conveyed the
same to your Orator so that your Orator has the
legal title to the one undivided sixth part of
the tract of land subject to the dower as a-
foresaid. Your Orator alleges that the said John
Graham Jefferson P. Cox and ~~and~~ Samuel P. Graham
have had the entire control and possession of the
said tract of land for a number of years and
have used and occupied the same to the exclusion
of all other parties when in fact they only owned
the widow Nancy's dower therein and hence your
orator charges that they or such of them as
held and used said land are bound to your
Orator and the balance of the owners of the
same for two thirds of the rents and profits
of said land from the time they came into
the possession of the same with interest thereon
and damages for waste deterioration &c. for
all injuries they have committed to said land.

and your Orator for the benefit of himself and
the other parties interested hereby claims the same.
Your Orators object ~~if~~ ^{by} this bill is have partition
made of the land in the bill mentioned amongst
the parties thereto according to their respective rights
and interests in the same ^{and dower assigned to the proper party now owning the same} and to have a sale of the
shares that cannot be conveniently partitioned as
your Orator is of opinion that it would suit the
the absent and nonresident parties best to have
their interests sold and the proceeds after paying
the costs divided amongst them and to have an
account of the rents and profits waste damages
deterioration &c. taken so as to ascertain how much
and who are liable therefor and to compel
the parties so found liable to account for the
same according to equity and justice.

Your Orator being without an adequate remedy
at law and only relievable in a Court of Chancery
his prayer therefore is that the said Thomas Burk
William Burk Overton Schoolcraft and Polly School-
craft his wife, Nicholas Daugherty and Rachel
Daugherty his wife and the unknown heirs of
Rachel Daugherty Hannah Burk and the un-
known heirs of Henry Burk deceased John
Burk Elizabeth Burk and the unknown heirs
of ~~Henry~~ ^{James} Burk deceased and the unknown heirs
of John B. Burk deed and Nancy Burk John Graham
Jefferson P. Cox and Samuel P. Graham be all
made parties defendant to this bill and that they
all be summoned and required to answer the
same upon their oaths and that an order of publi-
cation be made as to the Defendants who are
nonresidents and that a guardian ad l.

Be appointed to appear Answer and defend for
the infant Defendants if any such are ascertained
and that upon a ~~final~~ ^{and assignment of Dower} hearing of this Cause the
Court will decree a partition of said land ^{or} partition of part and sale of part as may seem
~~best~~ ^{best} or partition of a part and all ^{of the residue as may seem} ~~the residue as may seem~~
best and that an account be ordered as to the
rents profits ^{to ascertain who is liable for the same and they be compelled to account} damages &c. And such other further
and general relief be extended to your Petitor
as may be consistent with equity and justice
and best suited to his Case. May the Cometh
writ of Spa issue directed &c. David Miller
For Compt.

David Hall
res.
Died in Eng.
John D. Burks' heirs

Bill in Chy.

John D. Brooks Esq

1874. May 2. x. early
1874. June 2. 10. a. exact.

Van Lister's Box, 10th Street
and Anderson's Shop, 3rd Street

and Doorehei's Cant,
July Doorehei's Cant.

Confederate Navy
Adm. R. R. Taylor for hearing
of the case.

My dear George & Constance,

18 Mr. King 10000 Cash.

1877. Cash this year.
1878 Cash

1877. Mr. Gould's "Long" can
"1875. Gould & Gould.
1876. Mr. Gould's "Long" can

1882 continued. M. n.

1853

10	7.75	2.17
9	15.00	2.00
8	2.25	1.50
7	1.00	1.00
6	1.00	1.00
5	1.00	1.00
4	1.00	1.00
3	1.00	1.00
2	1.00	1.00
1	1.00	1.00
Total	10.00	10.00

1 To the Honorable H. S. H. Morrison Judge
2 of the Circuit Court for Lee County Virginia

3 Your petitioner Samuel P. Graham
4 would respectfully represent and show
5 to your honor, that there is and has been
6 pending in your honor's Court ever since
7 May 1874, a suit in chancery, instituted by
8 Daniel Hall, plaintiff vs John B Burles
9 heirs et al; the object of which said suit
10 was to ^{partition} the lands in the bill mentioned and fully
11 described among said heirs and the parties
12 entitled thereto, or if this be impracticable
13 to sell said lands and divide the proceeds
14 thereof among the parties entitled there
15 to. Reference is here made to said bill
16 for a full and particular description of
17 said lands and the interests of the parties
18 therein.

19 Your petitioner will now show your honor
20 that he was made a party to said suit,
21 and filed his answer therein setting up
22 his right as purchaser of the widows dower
23 in said tract of land, and also as an
24 owner in fee, by purchase of the interest
25 of one of the heirs. By an inspection of
26 said answer these facts will be seen
27 and also that he was the owner of the
28 debts due from the ^{said} decedent.

29 Your petitioner will further show your
30 honor, that by a decree entered in said
31 suit on the 1st Day of September 1874, *

1 Henry J. Morgan was appointed a Special
2 Commissioner for the purpose of ascertain-
3 ing ~~the~~ fact, whether it would best
4 promote the interest of the parties to
5 partition or sell said lands.

6 Pursuant to said decree said Commis-
7 sioner performed the duties required
8 of him and filed a report of the same
9 on the 13th day of November 1874.
10 And from an inspection of said report
11 it will be seen that said Commissioner
12 reported that it would best promote
13 the interest of said parties to sell said
14 lands, and he also ascertained the
15 fact that your petitioner was the
16 owner of the lower interest of the wid-
17 ow Nancy Burk in said lands, and
18 also the owner of two undivided
19 shares in the same, as he purchased
20 another interest after the filing of his
21 said answer.

22 Your petitioner will further show your
23 honor that by a decree entered in said
24 suit on 1st day of December 1874,
25 said Commissioner Morgan's report
26 was confirmed, and David Miller
27 was appointed a special Commissioner
28 for the purpose and was directed to sell
29 said land in the bill mentioned at public
30 outcry at the front door of the land
31 house after ^{duly} advertising etc, requiring

1 Costs of Suit & Commissions of sale to be
2 paid in hand, and the residue payable
3 in one, two and three years, taking bonds
4 with good security, for the same, with
5 interest from date. Pursuant to said
6 decree said Commissioner after adver-
7 tising as aforesaid, made said sale
8 of said land on the 18th day of January
9 1875, in the manner ~~prescribed~~ ^{directed} by said
10 decree, and at said sale, your petitioner
11 became the purchaser of said entire tract
12 of land at the price of \$160⁰⁰, that
13 out of said sum he paid said Commissioner
14 the sum of \$50⁰⁰ for hand for cost & Commis-
15 sion of sale, & took bonds for the residue
16 as directed by said decree, see report-
17 of said Commissioner, which was filed
18 August 4th 1875, & receipt here filed marked A & B.
19 Your petitioner will further show your
20 honor that by a decree entered in
21 said Cause ^{on the 1st day of December 1879} said report of said was con-
22 firmed, and it was suggested ^{by said decree} that your peti-
23 tioner the said purchaser was ^{the owner} entitled of the ~~proceeds~~ ^{proceeds}
24 of the proceeds of said sale of said land, it was ord-
25 ered that David Miller as Commissioner ascertain
26 who is entitled to said proceeds, Thus the matter
27 has stood up to the present time so far as the
28 records in said Cause disclose.

29 Your petitioner will now show your honor that
30 said Commissioner David Miller proceeded to
31 ascertain who was entitled to said proceeds, and

for Land Payment.

1 during his investigation one Dr Wm P. Miller
2 presented a claim as doctor's bill and nurses
3 bill against said decedent, for \$162⁰⁰, which
4 your petitioner paid in full, under the direction
5 of said Commissioner Miller. Said payment
6 was to have been reported by Commissioner Miller
7 to said Court for confirmation which was
8 a settlement of the ~~papered~~ purchase money
9 for said land, and as it that a decree be made
10 to your petitioner for said land.

11 Your Commissioner will further show your honor
12 that the said David Miller was the attorney
13 who prosecuted said suit and Commissioner
14 who made said sale, but before the above
15 arrangement and adjustment was reported
16 to Court for confirmation, said David
17 Miller died, leaving said suit in its pres-
18 ent status.

19 Your petitioner therefore prays, that if necessary
20 he may be allowed to show by proof that
21 the purchase money has been fully paid
22 as above stated, and that the Court may
23 appoint a Commissioner to make him
24 a deed for said tract of land, and
25 prays for all further and general
26 relief as may be just and suitable
27 to his case. And he will ever pray etc.

28 J. H. Swasey
29 for petitioner.

30 Sworn to before me by S. P. Graham on due
31 farm, April 2^d 1891. J. A. G. Hyatt C

To the Honorable John A. Kelly Judge of the
Circuit Court of Lee County:

The Seperate Answer of Samuel P. Graham
to the bill filed in this ^{Court} against himself and
others respectfully represents that he ~~is~~ ^{he} admits
the plaintiffs right to one share in Said land.
and his right to a partition and Sale of
the tract, Respondent also Claims that he is
the owner of the Dower in Said Tract by pur-
chase and is also the owner of one share in
Said tract and also the owner of all the debts
Due from the Decedents John B. Burks estate
and he further States that partition of the tract
of land in the bill mentioned Cannot be Conve-
niently made on account of the smallness
of the Shares into which the tract would have
to be divided and he further States that all
the Defendants except himself and those from
whom he derived his interests in Said land
are nonresidents and have no use for the
land and that a Sale of the land will be
necessary to pay the Decedents debts and hence
he alleges that the Said tract of land should
be sold instead of partitioned Subject how-
ever to his dower in Said land and the pro-
ceeds of the Sale after the payment of the
decedents debts distributed to the owners of
the land in proportion to their interest in
the same. And having answered he prays
to be dismissed with his Costs

David Miller for
Deft. S. P. Graham.

Daniel Hall
vs. } answer of
 } Samuel B. Graham
John B. Birks
 Leirs & others

1 Daniel Hall vs
2 } In Chancery,
3 John B. Burdicks et al Defts.

4 This cause came on again
5 this day to be again heard upon
6 the papers formerly read in
7 the cause, and the report of A. M.
8 Goins, special Commissioner filed
9 therein on the 11th day of November
10 1893, to which there are no exceptions,
11 and was argued by counsel.

12 And it appearing to the court
13 from said Commissioner's report,
14 that said Commissioner, pursu-
15 ant to the terms of a decree entered
16 in said cause, on the 5th day of
17 December 1891, has executed and
18 acknowledged a deed conveying
19 the land in the bill and proceedings
20 mentioned to S. P. Graham the pur-
21 chaser at said sale, and has filed the
22 same with said report, and that there
23 are no exceptions to said deed. It is
24 therefore adjudged, ordered and decreed
25 that said report of said Com-
26 missioner A. M. Goins, and said
27 deed be and the same are each
28 hereby confirmed.

29 It is ordered that the Clerk of this
30 Court deliver said deed to said
31 S. P. Graham, and that the said
32 Graham pay to the said A. M.

1 Gains, five dollars for executing
2 said deed, and there being
3 nothing further to do in this
4 cause, the same is stricken
5 from the docket.
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David Hall

vs
E. Reese

of
J. Neal,
for the B. Bond Co. Limited

Entered Ch. O.B. 575-
Nov 17th 1893.

Enter this,

Nov, 17th 1893.

H. H. H.

11

Daniel Hall Reff.

vs

John B. Burks heirs et al. dfts.

} Luchey

This cause came on this day to be again heard upon the papers formerly read in the cause & the rule heretofore awarded against the personal representatives of Wm P. Miller deceased, returned executed, and was argued by counsel. And it appearing to the Court that the rule heretofore awarded against the parties have been returned executed upon all of them, and ~~it is~~ ^{being} ~~shown~~ ^{shown} ~~against~~ the granting of the prayer of said petition, the said S. P. Graham purchaser at said sale is entitled to a deed for the land purchased by him at said said sale and in the bill and proceedings mentioned. It is therefore adjudged ordered, and decreed that A. M. Goins be and he is hereby appointed a special Commissioner for the purpose, who will make and deliver to S. P. Graham a deed for said land with covenants of special warranty. He will report his actions to the ^{next} term of this Court & the cause is continued.

Donie Hall

vs { Deane.

John B. Burkhert & Co.

Entsco. B. #3

pages 373 - 4

Hyatt Co.

Enter this -
H. B. M.

Dec. 8th 1891.

Daniel Hall Plff.

vs

John B. Burns & Sons et al, Dftd } In Chancery

This cause came on again this day to be heard upon the papers formerly read in the cause and the rule awarded at the last term of this Court against the parties therein named, returnable to this term of Court, and was argued by counsel. And it appearing to the Court that said rule has been executed against the resident parties, except the personal representative of Wm. P. Miller deceased, and duly published, in the Lee County Republican ~~as required~~ by law, against said parties whose whereabouts are well known, said proceedings are hereby confirmed, and it is therefore adjudged ordered and decreed that a new rule be awarded against the personal representative of Wm. P. Miller dead, when appointed, returnable to the first day of the next term of this Court, to show cause, if any he can or has why the prayer of the petition of S. P. Graham heretofore filed in said cause should not be granted, and the cause is continued.

Daniel Hall
to E Deane

John B. Purdie's personal.

Entd. Chas. O. B.
36-7. Sept. 4th 1891.
J. A. Hyatt

Enter this
H. S. K. M.
Sept. 4th 1891.

1 Daniel Hall vs. John B. Burks heirs et al Dfts. } DuChay,
2
3
4 This cause came on again this day
5 to be heard upon the papers formerly
6 read in the Cause, and the petition
7 of Samuel P. Graham filed therein
8 in open Court by leave thereof, on the
9 2^d day of April 1891. And was argued
10 by Counsel. On Consideration whereof
11 it is adjudged ordered and decreed that
12 a rule be awarded against Thomas
13 Burck, William Burck, Overton Schoolcraft,
14 and Polly Schoolcraft his wife, Nicholas
15 Dougherty and Rachel his wife, Eliza
16 Burck, the widow and unknown heirs
17 of Henry Burck deceased, ~~and the unknown~~
18 ~~relatives~~ of John B. Burck deceased, Daniel
19 Hall, and the personal representatives
20 of Dr William P. Miller deceased, ~~return~~
21 able to the ^{at day of} next term of this Court to show
22 Cause, if any they can, ^{or show} why the prayer
23 of said petition should not be granted.
24 And it further appearing to the Court that ~~the~~
25 whereabouts of the above ^{named} parties except Daniel
26 Hall & the personal representatives of W.P. Miller
27 deceased, are unknown, it is ordered that they
28 be summoned to appear hear by order of
29 publication duly published in the DuChay
30 Republican for four successive weeks,
31 and the Cause is continued.

Daniel Hall
vs Deane.

John B. Burdett

Entered in Chcy Ct.
P. 335-6, April 3rd 1891
J. A. B. Wyatt

Enter this
H. S. M.
April 3rd 1891,

Sanid Hall Plff

against

John B. Burks heirs Defts

In Chy.

This Cause Came on this day to be heard upon the papers formerly read and the report of David Miller Comr. who had sold the land in the bill mentioned and was argued by Counsel & said report having been filed for more than ten days before this term and no exceptions being filed thereto the said report is approved and confirmed and it being suggested that the purchaser is the owner of most of the proceeds of the Sale it is ordered that said Miller as Comr. ascertain who is entitled to the proceeds and to what extent and he will report to this Court and the Cause is continued.

Daniel Hall
vs. } Decree

John B. Burks him

Ent page 75.

Jas W Orr, Clerk.

Enter
J. H. H.
Dec 4/79

Com.

Daniel Hall Plff.

^{vs.}
John B. Burks heirs Defts

} Decree for Sale

This Cause came on this day ^{against} to be ^{furth} heard upon the papers formerly read in the Cause & the report of Commissioner H. J. Morgan, and the Depositions therewith, and was argued by Counsel, and it appearing to the Court that Commr. Morgan's report had been filed in the papers of this Cause for more than ten days before this term of the Court, and no exceptions having been filed thereto, on consideration of which it is adjudged ordered and decreed that the Same be and is hereby confirmed; and from said report it appears to the Court, that a ^{partition} ~~sale~~ of the tract of land ~~in~~ the bill mentioned cannot be conveniently made, and that a Sale ^{ought to} ~~may~~ be made of said land; It is therefore further ordered adjudged and decreed that David Miller, who is hereby appointed a Special Commissioner for the purpose is directed to sell the entire tract of land in the bill mentioned at public outcry to the highest bidder on some Court day at the front door of the Court-house after advertising the time place and terms of Sale at the front door of the Court-house and at two or more ^{other} public places in the County for four weeks before the day of Sale. He will require the Costs of this Suit and the expenses of the Sale in Cash and for the residue he will take Bonds with good Security payable in one two and

three years with interest from date and
he will report his action to the next term
of the Court.

Daniel Hall

vs. } Deane.

John B. Bunker

Entered order Book page
416.

James W. Con. Clerk.

Enter this

Book.

Nov. 1/74

Daniel Hall Plaintiff

against
John B. Burks heirs & others Defts

Decree in Chy

On motion of Defendant Samuel P. Graham leave was given him to file his answer and the same was accordingly filed and thereupon this cause came on this day to be ~~heard~~ heard upon the Complainants Bill and the exhibits therewith and the answer of Defendant Samuel P. Graham just filed and was argued by Counsel and it appearing to the Court that the resident Defendants Jefferson P. Cox John Graham and Samuel Graham & Thomas Burk were duly served with process which was returned to the Clerk duly executed more than two months before this term of the Court and that an order of publication was duly made posted and published against the nonresident Defendants Overton Schoolcraft and Polly his wife Nicholas Daugherty and Rachel his wife the unknown heirs of Rachel Daugherty, Elisabeth Burk and the unknown heirs of John B. Burk deceased and that the time required by law had elapsed since the completion of said order and all the said Defendants except the said Samuel P. Graham having still failed to appear and answer the Complainants bill the same is taken for Confessed against all the Defendants except the said Samuel P. Graham, On Consideration of all which the Court is of the opinion that the said tract of land is liable to partition or Sale whichever is best for the interest of

the parties and to ascertain the facts Henry
 J. Morgan a Commissioner of this Court is hereby
^{directed} to enquire and ascertain by legitimate evidence
 whether or not partition of the tract of land
 in the bill mentioned Can be conveniently made
 and whether or not the entire tract Can be allotted
 to any party who will accept it and pay therefor
 to the other parties Such sums of money as their
 interests therein may entitle them to And whether
 or not the interests of the parties will be pro-
 moted by a Sale of the entire tract or an al-
 lotment of a part and Sale of the residue &
~~or for~~ any other matters deemed pertinent by
 him and he will report his action to the
 next term of the Court and the Cause is con-
 tinued till the next term.

David Hall

vs. Deere

John W. Banks & sons
 & others

Entered Order Book

page 383.

James W. Dr. Ch.

Entered
 J. W. Dr. Ch.

Sept 11/74

Commissioners Office Jonesville Va Sept 11 1874
Daniel Hall

vs.
John B. Buckhirst et al Defts } In Lohy

The deposition of John Wallace and Jefferson P. Cox,
taken in this cause at the time of making certain
enquiries as therein directed by a decree in the cause

And the said Wallace being duly sworn deposes and says

I am well acquainted with the tract of land in this
cause referred to, - lying as I do upon adjoining lands

The tract contains about 43 acres and lies in a somewhat
long narrow strip, and as there are quite a number of
heirs interested therein, I am of opinion that the interest of
all concerned would be promoted by a sale of the entire
tract and the proceeds divided among the parties in pro-
portion to their rights, for were it partitioned, the lots
would be so small that it would cost too much to take them
in repair to be profitable to the owner, and would be
so small as not to be desirable to purchasers according to
my view of the matter.

I am of opinion that said tract is worth about \$5.00 per
acre, or \$215.00 for the whole, I know if no one who is willing
to take the whole and to account to the others for their interest
at the price fixed by me or at any other price, and further
this witness saith not

John^{his} Wallace

The said Jefferson P. Cox being likewise ^{sworn} duly sworn deposes and says

I am well acquainted with the land mentioned in the fileds
bill and am clearly of opinion that the interest of all

parties interested therein would be promoted, by a sale thereof
in a body, for were it divided, the shares would be so small
as not to be desirable to purchasers and so costly to be kept in
repair that it would not be profitable to the parties

The entire tract, I think is worth about \$220.00 but I do not know
of any one who would take it at that price nor do I know
of any one who would take one half, or one fourth thereof at
that price, and the other left to be sold or divided. And further
this witness saith not.

J. P. Cox

Virginia Lee County Court

The foregoing depositions of John Maliver and Jefferson
P. Cox was taken by me on the 11th day of Sept 1874 and
Sworn to by them respectively & likewise subscribed by them

Henry J. Morgan Commissioner

Daniel Hull

vs. {Depositions

John B. Bucks House

(A)

Commissioners Office Jonesville Va. Sept 11 1874.

Daniel Hall

Plff.

vs.

In Chancery

The heirs of John B. Burk & others Defts

To the Hon. Jas. A. Kelley Judge of the circuit court of Lee Co.

In order to enable me to respond to a decree entered in this cause on the 1st day of September 1874 I caused to come before me as witnesses John Maliver and Jefferson P. Cox whose Statements in the premises I reduced to writing, and file herewith the same marked (A) And from the Statements of these two witnesses it is manifest that the interest of all parties would be promoted by a sale of the entire tract.

The tract consists of about 40. or 43 acres, and is said to be quite poor and unproductive, and upon it there is a dower, during the life of Henry Burk, which is now owned by the defendant Samuel P. Graham, who is likewise the owner of two undivided interests therein.

The entire tract as a whole is thought to be worth about \$215.00 or \$220.00 and should it bring that sum the worth of the dower will then have to be ascertained and deducted, and the residue divided into 6 Shares.

Should it be determined to partition the tract, the first Step will be to lay off and assign dower to S. P. Graham & that being done, will leave perhaps 26 or 28 acres to be partitioned at present, & the same being subdivided into 6 parcels will give to each something more than 4 and less than 5 acres each which would be almost worthless, and the money it would bring would it seems to me be more valuable.

Daniel Hall

as { Commrs Report.

The Heirs of Saml B. Burkord.

Filed Nov-13th 1874.

James W. Orr Clerk.

Commisigned See p. 25

The tract lies in a long narrow strip and so far as
I know no one desires to have it at any given price
or any particular part at a given price

Respectfully Submitted

Harry J. Morgan Comr

To the Honorable John A. Kelly Judge of the
Circuit Court of Lee County:

Pursuant to a decree of the Circuit Court
of Lee County made and entered in the Cause
in Chancery pending in said Court of Daniel
Hall against John B. Burks heirs & others I proceed-
ed on the 18th day of January 1875 at the
front door of Lee Courthouse that being Court
day (after advertising the time place and terms
of Sale as required by said decree) to sell at
public auction to the highest bidder ~~for~~
the tract of land in the bill mentioned and
decreed to be sold and the Defendant
Samuel P. Graham being the highest bid-
der bid the same off at the price of
\$160.00 of which he paid me the
Costs and expenses of Sale in Cash
amounting to \$50.00 and for the residue
he executed Bonds with good Security
bearing interest from date and due
in one two and three years from
date. all of which is respectfully sub-
mitted &c. David Miller
Commr.

Daniel Hall Plff

vs. } Comrs. Report
of Sale.

John B. Burks heirs

Filed Aug. 4th 1875
James H. Orndick

Daniel Hall

vs.

} In Chancery.
John B. Burk's heirs & al.

To the Hon. H. S. K. Morrison, Judge
of the Circuit Court for Lee County, Va.

The undersigned Special Commis-
sioner begs leave to report, that, in pur-
suance of a decree entered in the
above styled cause on the 5th day
of Dec., 1891, appointing him a Spe-
cial Commis. for the purpose of making
and executing to the purchaser of the
land in the bill and proceedings
mentioned in this cause a deed
with covenants of Special warranty,
he has complied with the order
of the court and has made said
deed as directed by said order, and
the same is filed herewith marked
D.

All of which is respectfully
submitted, this Nov. 11th 1893.

A. M. Gorins,
Special Commis.

Daniel Hall

vs. Comis Report
of Deeds.

John B. Burk's heirs
et al.

Filed Nov 11, 1893,

J. A. S. Hyatt D.C.

Received of Samuel P. Graham Thirty five
Dollars as part of the Costs required in Cash
of him as purchaser of the Land I Sold
him as Commr. under a decree of the Cir-
cuit Court of Lee County in the Cause in
Chancery of Daniel Hall vs. John B. Burks
Heins & others, which leaves fifteen dollars
of the Court up to Nov. 1874 still unpaid
this April 14th 1875. David Miller
Commissioner

David Miller Comr.

To } Receipt

Samuel A. Graham

"A"

\$20.00

Recd. of Daniel Hall Esq. Saml. P. Graham
by N. S. Cox
Twenty dollars the amt. of a note placed in
the hands of Grace Miles constable for collection
which note ^{was} assigned to me by David T. Hall.
This recpt. is not intended to cover any constable
or magistrates fees.

December 4, 1875.

Wm. T. Orr

W. A. Co.
L. J. Reut.

L. S. Co.

"B"

Winn

$$\begin{array}{r} 4.0701 \\ \times 1.35 \\ \hline 203505 \\ 122100 \\ 40701 \\ \hline 5494575 \end{array}$$

Samuel P. Graham

To } Bond \$15.00

David Miller Comr.

Due April 14th 1875.

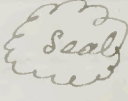
This Deed made the 28th day of February 1873
between Eliza Burk of the one part and David
Miller of the other part both of Lee County Virginia
Witnesseth that for and in Consideration of the Sum
of fifteen Dollars the Said Eliza Burk has granted
bargained and sold and does hereby convey to the Said
David Miller all her right title and interest in and
to a certain tract or parcel of land lying and be-
ing in Lee County Virginia containing 45 acres or the same
more or less adjoining the tract of land on which John
Graham now lives and bounded as follows to wit:

Beginning at a whiteoak and Dogwood near an
old well thence S 42 E 74 poles to a stake on Potests
line thence S 88 E 88 poles to a red oak thence N 45 W
139 poles to a Double Dogwood and Double Sourwood
and post oak thence S 45 W 50 poles to the beginning
together with all the appurtenances belonging to said
land it being the same tract or parcel of land owned
by James Burk deceased at his death and out of which
his widow Nancy Burk was entitled to dower and which
tract of land descended to John B. Burk son and
heir of said James Burk deceased subject to dower
as aforesaid and which tract of land was conveyed
to said Nancy Burk widow of James Burk deceased
and the said John B. Burk heir at law of James Burk
deceased the said widow of James Burk for her dower
interest in the same by George W. Garrett by deed bear-
ing date Feb. 22nd 1859 and admitted to record Feb-
ruary 22nd 1859 and the said John B. Burk having
departed this life before he became twenty one years
old without issue and unmarried the said tract of
land having been derived by descent from his father James
Burk deed. passed to his fathers kindred and the said

Eliza Burk being a ~~daughter~~^{Sister} of the Said James Burk deceased is entitled to a Share in Said land as such Subject however to the Lower interest of Nancy Burk the widow of James Burk decd which interest or Share only she hereby conveys to David Miller and she hereby binds herself to warrant generally the Share and interest in Said tract of land to Said David Miller against the Claims of all persons whatever.

Witness the following Signatures and Seal.

Two Witnesses.

Eliza ^{her} Burk ^{mark} 

Test ~~W B~~ ^{W B} Garrett

In County Court Clerk's office the 14th day of May 1873.
The foregoing deed from Eliza Burk of the one part, to David Miller of the other part, was this day proved before me by the oath of William Lyden one of the subscribing witnesses thereto to be the act of the said Eliza Burk for the purposes therein mentioned, and said deed having been likewise proved before ~~Am~~ J Orr deputy clerk of said Court, by the oath of W B. Garrett the other subscribing witness thereto, on the 25th day of May 1873, the same is admitted to record.

Teste James H Orr. Clerk.

Eliza Burk
To Seed.
David Miller

W. G. March 28th 1873

This Deed made this 22nd day of February 1859 between George W. Garrett, and Sallie his wife of the first part, and Nancy Burk, widow of James Burk ~~for~~ deceased, and John B. Burk heir at law of said James Burk ~~for~~ deceased of the other part, all of Lee County, State of Virginia, Witnesseth, that for and in consideration of the sum of \$75.00 to them in hand paid, by the said James Burk ~~for~~ deceased, in his lifetime, the receipt whereof they hereby acknowledge, have bargained, sold, and delivered, and by these presents do grant, bargain, sell, and deliver, to the said Nancy Burk widow of James Burk ~~for~~ deceased and the said John B. Burk heir at law of said James Burk ~~for~~ deceased, the said widow of said James Burk ~~for~~ deceased, for her dower interest in the same, a certain tract or parcel of land lying and being in Lee County Virginia on the river hill, three or four miles east of Jonesville, containing forty five acres more or less, and bounded as follows. Beginning, at a white oak and dogwood, near an old well, thence S 42° E. 74 poles to a stake on Potets line a corner to James Burk Senr land thence running with his line S 88° E. 88 poles to a red oak, thence N 45° W 139. poles to a double dogwood, double sourwood and post oak, thence S 45° W. 50 poles to the Beginning. To have and to hold the said tract or parcel of land, to the said Nancy Burk widow as aforesaid for her dower, interest in the same, and the said John B. Burk heir as aforesaid, and his heirs forever. And the said George W. Garrett and wife do hereby covenant to warrant generally the title to said tract or parcel of land. In witness whereof the said George W. Garrett, and Sallie his wife have hereunto subscribed their names, and affixed their seals, the day and year aforesaid.

George ^{W. Garrett} ~~W. Garrett~~ Seal

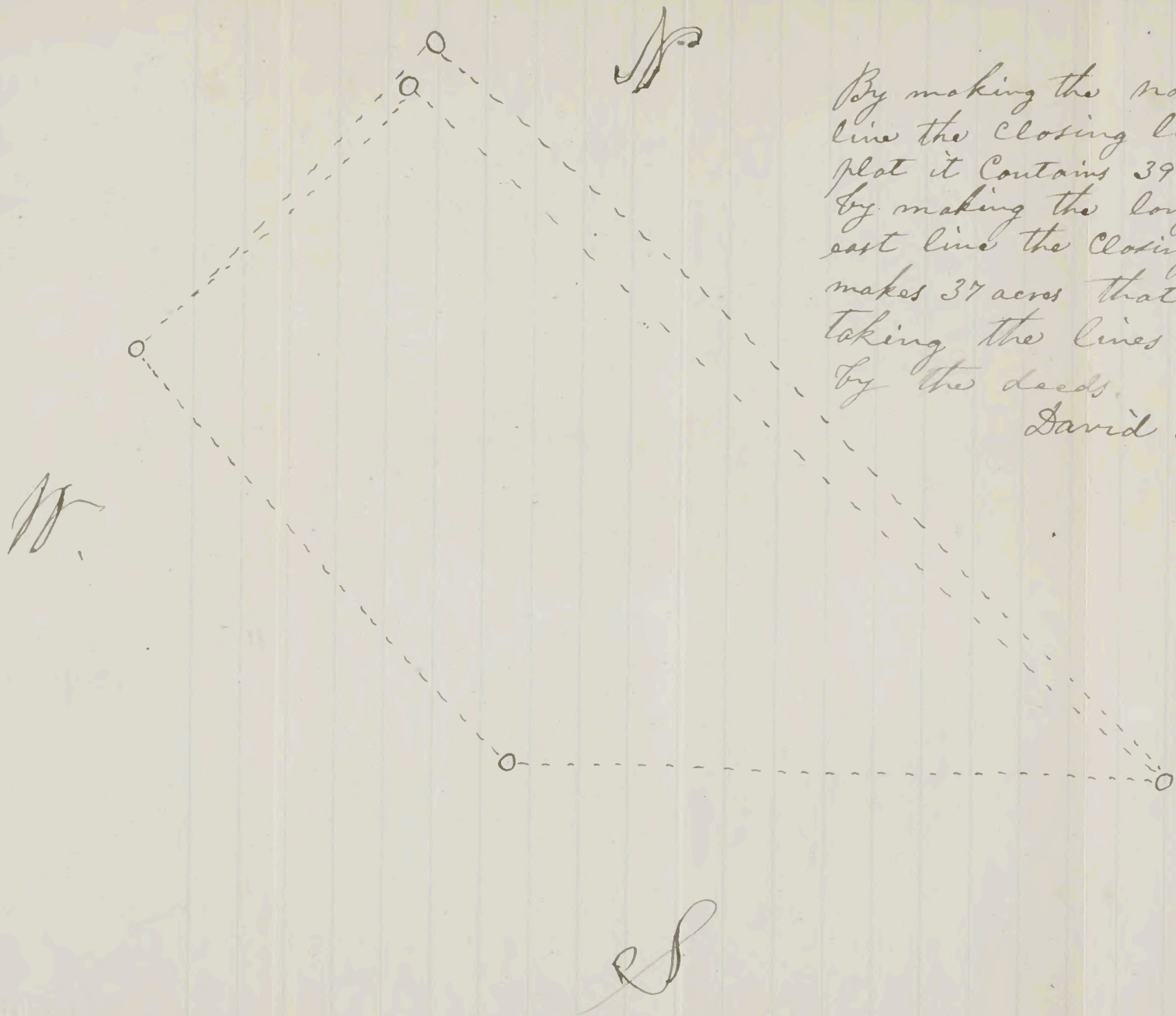
Lee County Court clerk's office the 22nd day of February 1859.
This Indenture of bargain and sale for land between George W.
Garrott, and Sallie his wife of the one part, and Nancy Burk
widow of James Burk Jr decd and John B. Burk heir at law
of the said James Burk Jr decd deceased of the other part, was acknow-
-ledged before me by the said George W. Garrott, and admitted
to Record as to him.

Teste H. G. Morgan C. C.

Attest Teste John B. Gibson D. C.

Nancy Burk et al
Known & Copy of Deed
George W. Garrott

to Wm 1859



By making the north west
line the closing line of this
plot it contains $39\frac{1}{4}$ acres but
by making the long north
east line the closing line it
makes 37 acres that is by
taking the lines as given
by the deeds.

David Miller.

E.

ES

Daniel Hall

vs. } Plat

John B. Burks
Heirs & others

Virginia

At a circuit Court continued
and held for Lee County on
the 25 day of April 1891,
Daniel Wall. Plff

vs
John B Barlow himself Deft

In Chancery

This cause came on again
this day to be heard upon the
papers formerly read in the
cause, and the petition of Samuel
P. Graham filed therein in open
Court by leave thereof on the 3^d
day of April 1891, and was
argued by Counsel. On considera-
tion whereof, it is adjudged
ordered, and decreed, that a
rule be awarded against Daniel
Wall, and the personal representative
of Dr J. M. Miller dec'd, returnable
to the 7th day of next term of
this Court to show cause,
if any they can or have
why the prayer of said pe-
tition should not be granted

A Copy

Wm J. G. Hyatt

For
Wm P. Miller's
personal representative

Virginia

At a Circuit Court Continued
and held for Lee County on
the 3^d of April 1891.

Daniel Hall }
vs }
John B. Burkhens et al Deft } In Chancery

This cause came on again
this day to be heard upon
the papers formerly read in the cause
and the petition of Samuel P.
Graham filed therein in open court
by leave thereof on the 2nd day of
April 1891, and was argued
by Counsel. On consideration
whereof it is adjudged, ordered,
and decreed that a rule be
awarded against Daniel Hall
the personal representation of Dr.
H. D. Miller be'd returnable to
the 1st day of next term of
this Court to show cause
if any they can or have
why the prayer of said petition
should not be granted.

At Copy
Teste J. A. S. Hyatt C.

Daniel Hall
vs $\frac{3}{4}$ Rule

John B. Burk's heirs
To 1st day next term

Executed July the 23, 1881
by delivering an official
^{to this court} copy to Daniel Hall
this July the 24, 1881
C. E. Flanagan, S. L. C.

Fee for copies \$1.08

Virginia,

At a circuit Court continued and
held for Lee County at the court
house thereof September 4, 1891.

Daniel Hall

Deft

vs

J. B. Burks heirs

Defts

} In Chancery

#

And it is there
fore adjudged ordered and decreed
that a new rule be awarded against
the personal representative of Wm. G.
Miller decd when appointed, return
able to the first day of the next
term of this court, to show cause if
any he can or has, why the prayer
of the Petition of S. P. Graham, hereto
fore filed in said cause should not
be granted and the cause is contin-
ued.

Attest

Lester J. A. G. Hyatt Clerk

Daniel Hall
Copy of Rule

as
J. B. Burkes Heiss

from

Personal Representative
of Dr. Wm P. Miller

Virginia

At a Circuit Court continued
and held for Lee County at the court
house thereof September 4th 1891.

Daniel Hall

Deft

vs

J. B. Burk's heirs

Defts

In Chancery

And it is there
fore adjudged ordered and
decreed that a new rule
be awarded against the personal
representative of Wm. P. Miller decd
when appointed, returnable to the
first day of the next term of this
Court, to show cause if any
he can or has, why the
prayer of the Petition of
L. P. Israhham, heretofore
filed in said Cause, should
not be granted and the Cause
is Continued.

A Copy

Teste J. A. G. Hyatt Clerk

1 Copy

Daniel Hall
3 Copy of Rule
as 3
J. B. Burks heirs

I accept legal service
of the within only
this Oct 26 1891
C. C. Flanagan S. L.

The object of this Suit is to have Dower assigned in a tract of land owned once by John B. Burk deceased and partition and Sale of the Same & the land and proceeds partitioned and divided amongst the parties entitled to the Same and to have an account taken of the rents and profits waste Damages &c. of the Said land so as to charge the proper parties with the Same and Compel them to account for the Same

10.24
 .72
\$10.96
 5.00
15.96

7.75
 2.64
10.39 10.96
 10.39
 .57

Daniel Hall

vs Bill in Chancery.

John B Burk's heirs et al

 1874 May Bill filed & order Pub.

Memorandum

Samuel P. Graham bid off the tract this
day at \$160.00 There being no further or
other Bidder. This 1st. day of Jani-
^{Court}uary 1875. David Miller Comr.

Daniel Hall

vs. { memorandum
of Sale

John B. Burks heirs

Commissioners Office Jonesville Va. Sept 10th 1874

Daniel Hall

Plff

vs

John B. Burks heirs & others

Defds

In Chancery

Notice

Is hereby given the parties to this Suit, that at my office in Jonesville on the 11th day of Sept. 1874 I will proceed to enquire and report whether or not partition of the tract of land in the bill mentioned can be conveniently made among the parties in interest, or whether or not the entire tract can be allotted to any party who will accept it, and pay therefor to the other parties such sums of money as their interests may entitle them to, and whether or not the interests of the parties will be promoted by a sale of the entire tract, or an allotment of a part, and a sale of the residue.

Henry J. Morgan Comr.

Daniel Hall

vs { Notice

Debtors of John B. Burkett

Virginia

At rules held in the clerk's office of the Circuit
Court of Lee County, on Monday the 4th day of May 1874.

Daniel Hall

Plaintiff

against

In chancery.

John B. Burk's heirs et als. Defendants

The object of this suit is to have dower assigned in a tract of land owned by the said John B. Burk deceased, and partitions and sale of said tract of land, and the land and proceeds thereof partitioned and divided among the parties entitled thereto, and to have an account taken of the rents and profits, waste damages &c of the said land, so as to charge the proper parties with the same and compel them to account therefor. And it appearing from an affidavit filed in the cause that the defendants Overton Schoolcraft & Polly Schoolcraft his wife, Nicholas Laugherty & Rachel Laugherty his wife, the unknown heirs of Rachel Laugherty, Elizabeth Burk, the unknown heirs of John B. Burk, deceased, and of James Burk deceased, are nonresidents of this State, they are therefore ordered to appear here within one month after due publication of this order and do what is necessary to protect their interests in this suit.

Attest Teste James W. Orr Clerk,

I certify, that on Monday the first day of the May Term 1874, of Lee County Court, I posted a copy of the above order, at the front door of the Court house of said County, This day of 1874.

James W. Orr, Clerk.

Daniel Hall

vs Order Publication

John B. Burk's heirs et als.

Copy mailed to Patriot & Herald
May 4th 1874.

James W. Orr. cl.

Daniel Hall

vs.

Affidavit.

John B. Burks Heirs & others

This Day David Miller personally appeared before me the Undersigned Clerk of the Circuit Court of Lee County Va. and made oath in due form of law that Overton Schoolcraft and Polly Schoolcraft his wife Nicholas Daugherty and Rachel Daugherty his wife and the unknown Heirs of Rachel Daugherty Elisabeth Burk and the unknown Heirs of John B. Burk decd and James Burk deceased are nonresidents of this State to the best of his knowledge information and belief. And the affiant further states that he makes this affidavit from information derived ^{mostly} from others he not being acquainted with all the nonresident Defts. but he believes the information to be correct.

Given under my hand this the 4th day of May 1874.

James W. Con. clk.

Daniel Hall
vs ^{for} Affidavit Publication
John B. Burdick his et als

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF LEE COUNTY--GREETING:

WE COMMAND YOU TO SUMMON *Thomas Burk, Wm Burk, Overton Schoolcraft & Polly Schoolcraft his wife, Nicholas Daugherty, & Rachel Daugherty his wife, the unknown heirs of Rachel Daugherty, Hannah Burk, the unknown heirs of Henry Burk decd, John Burk, Elizabeth Burk, the unknown heirs of James Burk decd, the unknown heirs of John B Burk decd, Nancy Burk, John Abraham Jefferson Cox & Samuel Abraham.* *Circuit*
To appear before the Judge of our ~~County~~ Court of Lee County, at the Court House, in the Clerk's Office, at Rules to be holden for said Court, on the first Moday in *June* next, to answer a bill in Chancery, exhibited in our said Court against *them* by *Daniel Hall*

And have then there this writ. Witness, JAMES W. ORR, Clerk of our said Court, at the Court House, this *4th* day of *May* 1874 in the 98th year of the Commonwealth.

James W Orr, Clerk.

Daniel Hall

88. { in Chancery,

Thomas Bark. et al.

June Rules 1844.

Rescued by delivering
to Jefferson P. Co. John
& Samuel P. Graham

copies of the within
C. L. Hamblen & Co.

presented on Thomas

Bark. and on John

S. S.

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF LEE COUNTY.—GREETING:

WE COMMAND YOU TO SUMMON *Thomas Burk, Wm Burk, Overton Schoolcraft & Polly Schoolcraft & his wife, Nicholas Daugherty, & Rachel Daugherty, his wife, the unknown heirs of Rachel Daugherty, Hannah Burk, the unknown heir of Henry Burk dead, John Burk, Elizabeth Burk, the unknown heir of James Burk dead, the unknown heirs of John B. Burk dead, Nancy Burk, John Graham, Jefferson P. Cox & Samuel P. Graham.*

To appear before the Judge of our County Court of Lee County, at the Court House, in the Clerk's Office, at Rules to be holden for said Court, on the first Monday in *June* next, to answer a bill in Chancery, exhibited in our said Court against *them* by *Samuel Hall*.

And have then there this writ. Witness, **JAMES W. ORR**, Clerk of our said Court, at the Court House, this *17th* day of *May* 1874 in the 78th year of the Commonwealth.

James W. Orr Clerk.
Attest James W. Orr, Clerk

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF LEE COUNTY--GREETING:

WE COMMAND YOU TO SUMMON *Thomas Burk, Wm Burk, Overton Schoolcraft & Pally Schoolcraft his wife, Nicholas Daugherty & Rachel Daugherty his wife, the unknown heirs of Rachel Daugherty, Hannah Burk, the unknown heirs of Henry Burk dead, Wm Burk, Elizabeth Burk, the unknown heirs of James Burk dead, the unknown heirs of John B. Burk, dead, Nancy Burk, John Graham, Jefferson P. Cox & Samuel P. Graham,*
To appear before the Judge of our ^{County} Court of Lee County, at the Court House, in the Clerk's Office, at Rules to be holden for said Court, on the first Monday in *June* next, to answer a bill in Chancery, exhibited in our said Court against *them* by *Daniel Hall,*

And have then there this writ. Witness, JAMES W. ORR, Clerk of our said Court, at the Court House, this *2nd* day of *May* 1874 in the 33rd year of the Commonwealth.

James W. Orr, Clerk.
Resd James W. Orr, Clk,

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF LEE COUNTY--GREETING:

WE COMMAND YOU TO SUMMON Thomas Burk, ^{Wm Burk}, Overton Schoolcraft,
+ Polly Schoolcraft his wife, Nicholas Daugherty + Rachel Daugherty, his
wife, the unknown heirs of Rachel Daugherty, Hannah Burk, the unk-
-known heirs of Henry Burk decd, John Burk, Elizabeth Burk, the next now
heirs of James Burk decd, the unknown heirs of John B. Burk decd, Nancy
Burk, John Graham Jefferson P. Cox + Samuel P. Graham.

To appear before the Judge of our County Court of Lee County, at the Court House, in the
Clerk's Office, at Rules to be holden for said Court, on the first Moday in June next,
to answer a bill in Chancery, exhibited in our said Court against them by Daniel Hall.

And have then there this writ. Witness, JAMES W. ORR, Clerk of our said Court,
at the Court House, this 17th day of May 1874 in the 98th year of the Common-
wealth.

James W. Orr, Clerk.
Attest James W. Orr, Clerk.

EXIA.

THE COMMONWEALTH OF VIRGINIA

Deposited

TO THE CLERK OF THE COUNTY

OF THE COUNTY

the County of the State of Virginia, the Clerk of the County of the State of Virginia, in the County of the State of Virginia, on the first day of the month of the year of our Lord one thousand eight hundred and

by

James W. Ogle, Clerk of the County

James W. Ogle, Clerk of the County

James W. Ogle, Clerk of the County

Clerk

James W. Ogle

Virginia

At a Circuit Court continued and held
for Lee County on April 3rd 1891.

Daniel Hall

Plff

Vs

Inchan-
cery

John B. Burk's heirs Defts

Samuel P. Graham this day filed
a petition in this cause, the object of
which is to have a conveyance made to
him of the land sold by court in this
cause. And it appearing from a decree
entered herein, that the whereabouts of
the defendants Thomas Burk, Buerton
Schoolcraft and Polly Schoolcraft his
wife, Nicholas Daugherty and Rachel
his wife, Eliza Burk, the widow and
unknown heirs of Henry Burk decd, and
the unknown heirs of John Burk decd
are unknown. It is ordered that they
appear here within 15 days after due
publication of this order, and do what
may be necessary to protect their inter-
est in this suit and show cause if any
they can why the prayer of said peti-
tion should not be granted.

A copy—Teste:

B. H. Sewell p. q. J. A. G. Hyatt

19-23

Clerk.

J. H. Hobbs

I, Geo. W. Blankenship, Editor of the LEE COUNTY RE-
PUBLICAN, a weekly newspaper published in the town of
Jonesville, and County of Lee, hereby certify that the fore-
going Order of Publication was duly published in the above
named paper for four successive weeks ending

Aug 11 1891.

J. H. Hobbs Editor LEE Co., REPUBLICAN

Daniel Hall

vs $\frac{3}{3}$ Pub Certificate
John B. Burke's heirs

I certify that I posted
an office copy of
this order at Lee County
Court house on the
first day of July term
County Court 1891.

J. A. Stuyatt C

Printers fee 5¢

Filed Aug. 17/1891.

J. A. Stuyatt C

Davis Hall
to Petition

John W. Bushnell

Filed April 3 1893
in open court
by leave thereof
J. A. Bennett

I am to make a
Deed in this case
A. M. Gains

1893 Your Term
Decees find